

# Traffic Safety Facts

## Laws

January 2006

## High-BAC Laws

### Background

The National Highway Traffic Safety Administration (NHTSA) encourages States to enact enhanced sanctions for drivers with a blood alcohol concentration (BAC) of .15 grams per deciliter or greater. A driver with a BAC of .15 g/dL or greater is at least 20 times more likely to be involved in a fatal crash than a sober driver. During an average weekend night, about one percent of drivers have BACs of .15 or greater and about two-thirds of fatally injured drinking drivers have BACs of .15 or greater. Enhanced penalties for first-time high-BAC offenders should be comparable to those applied to repeat offenders, as high BAC is associated with a higher probability of recidivism.

### Key Facts

- For 2004, the most frequently recorded BAC level among drinking drivers involved in fatal crashes was .18 g/dL.
- It is estimated that half of all drivers arrested and half of those convicted of DWI have BACs of .15 or above.
- As of January 2006, 31 States have enacted high-BAC laws.
- The adopted high-BAC levels vary from State to State from .15 to .20.
- A variety of organizations, including Mothers Against Drunk Driving, the National Transportation Safety Board, and The Century Council (which is supported by the Nation's leading distillers) actively support strategies to address high-risk drivers, including drivers with high BACs at .15 or greater.
- Enhanced penalties contained in State laws also vary, and may include increased driver license sanctions, vehicle or license plate impoundment or immobilization, mandatory assessment and treatment, close supervision, use of ignition interlock devices, fines

and fees, and imprisonment or home detention (with electronic monitoring).

### Incentive Grant Program

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Section 2007 of SAFETEA-LU amends the alcohol-impaired driving countermeasures incentive grant program (under Section 410 of chapter 4 of Title 23) to encourage States to adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while impaired by alcohol, including a program for high-risk drivers with a BAC of .15 or greater. A qualifying State may use these grant funds to implement impaired driving activities in accordance with the Federal statute.

The High-Risk Drivers provision of Section 410 as revised by SAFETEA-LU provides that high-risk driver laws must include stronger sanctions or additional penalties for individuals convicted of DWI with a BAC of .15 g/dL or greater than for individuals convicted of the same offense

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but with a lower BAC. SAFETEA-LU provides that these additional penalties must include:

- one-year suspension of license, provided that after 45 days a provisional license may be issued so the offender can drive to employment or school and only in a vehicle equipped with an ignition interlock; and
- a mandatory assessment by a certified substance abuse official with possible referral to counseling if appropriate.

The statutory provisions of the Section 410 program will be implemented by NHTSA through a regulatory process.

## References

*Enhanced Sanctions for Higher BACs: Evaluation of Minnesota's High BAC Law.* National Highway Traffic Safety Administration, Washington, DC, DOT HS 809 677, May 2004.

Compton, R. et al., *Crash Risk of Alcohol Impaired Driving.* Proceedings of the 16th International Conference on Alcohol, Drugs, and Traffic Safety. (Eds. Mayhew DR, Dussault C), vol 2, pgs. 673-678. Societe de l'assurance automobile du Quebec, Quebec, Canada, 2002.



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Reports and additional information are available from your State Highway Safety Office; the NHTSA Regional Office serving your State; NHTSA Headquarters, Office of Impaired Driving and Occupant Protection, ATTN: NTS-111, 400 Seventh Street, SW., Washington, DC 20590; 202-366-2683; or NHTSA's Web site at [www.nhtsa.gov](http://www.nhtsa.gov).